

Chapter 12.16

TOWN CEMETERY

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12.16.010 Purpose.

The purpose of this Chapter is to provide for Town cemeteries, including the Lakeside Cemetery, and to provide rules and regulations for the use, operation, maintenance and care of the cemetery(ies). These rules shall apply to any cemetery owned and operated by the Town.

12.16.020 Uses.

- A. The cemetery shall be used exclusively for the burial of human beings and their remains.

12.16.030 Definitions.

As used in this ordinance, the following words and phrases will have the following meanings, unless the context clearly indicates a different meaning:

- A. "Cemetery" shall mean any cemetery which is owned, managed or maintained by the Town of Pinetop-Lakeside.
- B. "Companion grave" means a special plot or grave site designed and sold for the burial of two persons.
- C. "Cremains" means the cremated remains of a dead body.
- D. "Burial" means the interment of a dead body or the remains into a grave.
- E. "Exhume" means the disinterment, digging up or removal of a dead body or the remains from a grave.
- F. "Plot" means the lot or space reserved for the burial of a dead body at a cemetery.

12.16.040 Administration and maintenance.

- A. The Town Public Works Director shall be responsible for the administration, operation and maintenance of the cemetery.
- B. The Town shall have the right to change, modify, or replat the plots or uses in any part of the cemetery not previously reserved for burial purposes.
- C. All applications for reservations or transfers for burial plots shall be made in writing on forms provided by the Town Public Works Department.
- D. All instructions for burial shall be in writing and on forms provided by the Town.
- E. The Town of Pinetop-Lakeside reserves to the Town the perpetual right of entry, use and control of the cemetery land for purposes of maintenance and operation of the cemetery.

12.16.040

F. The Town shall take reasonable precaution to protect plot owners and the burial rights of owners within the cemetery. The Town disclaims all responsibility for loss or damage caused by flooding, fire, windstorm, or other causes deemed an Act of God, a common enemy, thieves, vandals, strikes, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral.

G. Town employees are not permitted to do any work for plot owners except at the direction of the Public Works Director and are prohibited from receiving tips or gratuities.

H. The Public Works Director in consultation with the Town Manager reserves the right to make exceptions, suspensions, or modifications of any of the rules and regulations without notice when, in their judgment, such action appears necessary for the efficient, fair operation of the cemetery. Any such exception, suspension, or modification shall in no way be construed as affecting the general application of this Chapter and shall not act as a waiver of any of the provisions herein.

I. The Town of Pinetop-Lakeside reserves the right to adopt new rules, amend or suspend present rules and regulations herein, at any time, without direct or personal notification to plot owners.

J. Appeals for decisions made by the Public Works Director relating to the administration and maintenance of the cemetery shall be made first to the Town Manager, then to the Board of Adjustment in writing as set forth in Town Code Chapter 17.120.

12.16.050 Reservations and transfers of plots.

A. The Town will show available plot locations and prepare cemetery reservation agreements for selected plot sites. Reservation sales or transfers are not complete or final until the purchaser pays for the plot(s) and signs the reservation agreement.

B. No burial or placing of a memorial shall be permitted until the reservation sale is completed and the purchase price has been paid in full. No burial of any person, family or heirs shall be allowed without proof of the reservation interest to the Town Public Works Department.

C. No deed to a cemetery plot shall be issued. The reservation agreement or a reservation transfer agreement shall constitute the sole agreements between the Town of Pinetop-Lakeside and the purchaser.

D. It shall be the sole responsibility of the reservation agreement holder to keep the Town informed of the correct mailing address. Notices or other correspondence mailed to purchasers, their legal representatives or heirs shall be deemed delivered and received three (3) days after the Town's mailing of the notice or correspondence to the address on file with the Town Public Works Department.

E. A plot reservation may be sold or transferred with written approval from the Public Works Director.

F. All applications and agreements for reservation plot sales or transfers shall be in writing on forms provided by the Town. No other agreements or contracts will be recognized by the Town.

12.16.060 Application and fees.

A. Applications for the purchase or transfer of a reservation for a cemetery plot shall be made on forms provided by the Town. The appropriate purchase/transfer fee shall accompany all applications.

B. All cemetery fees, including application fees, reservation fees, transfer fees, and other special fees related to cemetery plots shall be set from time to time by resolution of the Town Council.

12.16.070 Burial and exhumation; cremains.

A. All burials and exhumations of bodies are subject to the laws of the State of Arizona and this Chapter.

B. All burials shall be in a liner or vault of concrete, steel or other material approved for use by the Town.

C. Charges for burial and exhuming services provided by the Town shall be established by the Town Council, and shall be payable in advance.

D. Twenty-four (24) hours advance notice shall be provided to the Town Public Works Department for any burial.

E. Seven (7) days advance, written notice shall be provided to the Town Public Works Department for any exhuming services.

F. No more than one (1) body may be buried in any one (1) plot, grave, vault, or crypt except in the case of a mother and a child less than one (1) year of age, or in a companion grave. However, with consent of the owner or heirs of the owner of a plot, an exception may be made to permit no more than one (1) regular burial and up to four (4) additional cremains in any one (1) plot, grave, vault, or crypt.

G. All cremains shall be buried and appropriate arrangements for the burial shall be scheduled with the Town Public Works Department. Cremains shall not be scattered in the cemetery, or buried without the Town's written permission.

H. In the absence of acceptable evidence of ownership, the Town reserves the right to refuse to open any burial plot and to refuse to conduct a burial. If, for any reason, a plot in a requested location cannot be used, to prevent a delay in burial or funeral services, the Public Works Director may provide one in an available location.

I. The Town shall not be liable for any delay in burial where protest by a deceased person's legal representatives or heirs have been made, or where the law, or rules and regulations have not been complied with.

J. Human remains are the responsibility of the decedent's family, heirs, or executor until buried. During any legal process or protest which delays or prohibits the Town from burying any person, the family, heirs, or personal representative shall store the human remains until the legal process or protest is resolved. The Town shall be reimbursed for any expenses related to burial or the exhuming of any body or remains as a result of such protest or legal process.

K. Caskets containing remains or cremains, once buried, will not be opened or removed except in accordance with State law, and without the written consent of personal representative or other legal representative of the deceased, or an order from a court of competent jurisdiction.

L. No burials shall be conducted after official sunset.

12.16.080 Conduct Within Cemeteries.

A. Visitors are reminded that cemetery grounds are considered sacred and a strict observance of accepted decorum shall be required at all times.

B. Visitors will use the walkways and roads provided to access plots.

C. No person shall dispose of any rubbish, trash, waste materials, litter, or debris of any kind in the cemetery.

D. No person shall plant any tree, shrub or other plant in the cemetery except those permitted and approved in writing by the Town.

E. No person shall cut down, injure, break or destroy any tree, shrub or other plant growing in the cemetery or to pick, pluck or cut any flower or decorative plant in the cemetery.

F. Firearms, other than those carried by police officers or which will be used in approved military honor funeral services, are prohibited in the cemetery.

G. No person shall interfere with the conduct of a funeral, graveside service, burial or exhuming of a body at the cemetery.

H. No person shall desecrate, vandalize, deface, tear down or injure any property, plot, grave, grave stone, monument, tomb, vault, fence, tree or shrub in the cemetery. Likewise, no person shall disturb, destroy, deface, desecrate, vandalize, tear down or injure any decorations, flowers or other tokens of remembrance placed at any grave plot or within the cemetery.

I. No person shall enter into or be upon the cemetery grounds of the Town during the time after sunset and before sunrise of any day without first obtaining the written permission of the Town.

12.16.090

J. Sale of any goods or services on cemetery property is strictly prohibited unless prior, written authorization is given by the Town.

12.16.090 Memorials and gravestones; decoration of gravesites and plots.

A. All markers in the cemetery shall be installed by a licensed memorial representative.

B. Only one (1) gravestone will be allowed for each grave plot, and this shall be placed at the head of the grave or plot. In the event a family monument gravestone is placed at the head of a group of grave plots, an individual marker may be placed at the foot of each grave for individuals buried there. Government markers like military markers may also be placed at the foot of the grave in addition to the headstone.

C. All gravestones or markers in the cemetery shall be forty (40) inches or less in height and shall have a concrete foundation, which shall be poured and set by a licensed memorial representative or Town Public Works Department staff. Gravestones or markers greater than forty (40) inches in height shall only be permitted with written approval of the Town.

D. The Town shall not be responsible for the preservation and care of any gravestones, markers or memorials installed in the cemetery.

E. The placing of decorations, cut flowers or plastic flowers, or other small tokens of remembrance at individual grave plots shall be permitted; however, the Town shall not be responsible for the care of such decorations, flowers, tokens of remembrance or the containers that they are placed in. The Town may remove, without notice, all decorations, flowers, real or artificial, tokens of remembrance or other things that are deteriorated or which have been left at the cemetery for more than fifteen (15) days.

F. The placement of permanent decorations or small tokens of remembrance shall only be permitted with the express, written permission of the Town.

G. No person shall plant any tree, shrub or other plant at individual grave plots except those permitted and approved in writing by the Town.

12.16.100 Use of Motorized Vehicles in Cemeteries.

A. No person shall drive any motorized vehicle within the cemetery except upon driveways designated for that purpose.

B. Vehicles shall not be operated in excess of five (5) miles per hour within cemeteries.

C. Vehicles shall not drive or park off of hard-surfaced roads.

D. Vehicles shall not be parked or left standing where the vehicle blocks other traffic or prevents other vehicles from using or traveling on the cemetery roads. The Town of Pinetop-Lakeside reserves the right to have any vehicle violating this section removed at the owner's expense.

E. Funeral processions entering the cemetery shall be under the direction and control of the Town Public Works Department. Unless exception is made by the Town in writing, a licensed funeral director shall be present at all times and shall conduct services as provided by existing State laws, the Town Code, and applicable rules and regulations.

12.16.110 Enforcement and Penalties.

A. The Town Police Department, the Code Enforcement Officer, and employees of the Public Works Department shall, in connection with their duties, enforce the provisions of this Chapter.

B. The Town Police Department, the Code Enforcement Officer, and employees of the Public Works Department shall have the authority to order any person or persons acting in violation of this ordinance to leave the cemetery.

C. Violators of this Chapter may be cited using the uniform traffic citation form or any other form approved by the Chief of Police. The citation shall show the specific Section or Sections alleged to have been violated, a brief description of the violation, whether the citation is for a civil or criminal offense, and whether the violation is charged as a second, third or greater offense. If there is no designation of a

second or greater offense, the citation shall be considered a first offense. For continuing violations, the dates or the number of days shall also be noted on the citation.

D. Violations of the following sections of this Chapter shall be charged on the first and subsequent offenses as a Class 2 Misdemeanor:

1. Section 12.16.020.
2. Section 12.16.050.B.
3. Sections 12.16.080.C, D, E, F, G, H, and J.
4. Section 12.16.100.A and C.

E. Civil Violations. When a violation of this Chapter, except as set forth in section 12.16.110.D, above, is undesignated or designated a first offense by the enforcement officer or the Town Attorney, a person found to have been in violation of this Chapter shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), plus restitution for personal injuries, property damage or any other economic loss suffered by any person including the Town.

F. Criminal Violations. When a person convicted of a violation of this Chapter is a person who has been previously convicted of a violation of a provision of this Chapter within a period of twelve (12) months, the person shall be deemed to have committed a Class 2 Misdemeanor, pursuant to Arizona Revised Statutes, Title 13, Chapters 6, 7 and 8, as amended, and shall be subject to a fine of not less than Seventy-Five Dollars (\$75) nor more than Seven Hundred Fifty Dollars (\$750) for each violation or count, plus surcharges, fees and restitution for personal injuries, property damage or any other economic loss suffered by any person including the Town.

G. Jail Time. No violator shall be subject to jail time for offenses charged pursuant to this Chapter, but this prohibition shall not apply to offenses designated as violations of Arizona revised Statutes, the United States Code or other applicable laws. (Ord. 06-285)